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7 *Attorneys for Defendants*  
*Las Vegas Metropolitan Police Department*  
8 *and Joseph Smith*

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 MARK CLIFFORD SYKES, Sui Juris,

12 Plaintiff,

13 vs.

14 LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT of CLARK COUNTY  
15 NEVADA (LVMPD; Officer S. Hunt badge  
number P#17602, Officer Smith badge number  
16 P# 9643, National Crime Information Center  
(NCIC), et al.,

17 Defendants.

CASE NO.: 2:21-cv-01479-RFB-DJA

**LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT AND  
SERGEANT JOSEPH SMITH'S  
ANSWER TO PLAINTIFF'S SECOND  
AMENDED COMPLAINT**

19 Defendants Las Vegas Metropolitan Police Department and Sergeant Joseph Smith  
20 (collectively, "LVMPD Defendants"), through their counsel, Kaempfer Crowell, file an Answer  
21 to Plaintiff Mark Sykes's Second Amended Complaint, (ECF No. 22), and admit, deny, and  
22 allege as follows:

23 **INTRODUCTION**

24 1. Answering Paragraph 1 of the Second Amended Complaint, the allegations

1 contained therein consist of non-factual legal conclusions and, therefore, LVMPD Defendants  
2 are not required to answer Paragraph 1. To the extent factual allegations are in Paragraph 1,  
3 LVMPD Defendants deny the allegations.

4 **JURISDICTION AND VENUE**

5 2. Answering Paragraph 2 of the Second Amended Complaint, the allegations  
6 contained therein consist of non-factual legal conclusions and, therefore, LVMPD Defendants  
7 are not required to answer Paragraph 2.

8 3. Answering Paragraph 3 of the Second Amended Complaint, the allegations  
9 contained therein consist of non-factual legal conclusions and, therefore, LVMPD Defendants  
10 are not required to answer Paragraph 3.

11 4. Answering Paragraph 4 of the Second Amended Complaint, the allegations  
12 contained therein consist of non-factual legal conclusions and, therefore, LVMPD Defendants  
13 are not required to answer Paragraph 4.

14 **PARTIES**

15 5. Answering Paragraph 5 of the Second Amended Complaint, LVMPD Defendants  
16 are without knowledge or information sufficient to form a belief as to the truth of the allegations  
17 contained in said paragraph and therefore deny the same.

18 6. Answering Paragraph 6 of the Second Amended Complaint, LVMPD Defendants  
19 admit that Officer S. Hunt was a police officer and employed by LVMPD at the time of his  
20 encounter with Plaintiff. With regard to the remaining allegations in said paragraph, the  
21 allegations contained therein consist of non-factual legal conclusions and, therefore, LVMPD  
22 Defendants are not required to answer.

23 7. Answering Paragraph 7 of the Second Amended Complaint, LVMPD Defendants  
24 deny the allegations.



1 Defendants deny the allegations.

2 18. Answering Paragraph 18 of the Second Amended Complaint, LVMPD  
3 Defendants admit the allegations.

4 19. Answering Paragraph 19 of the Second Amended Complaint, the LVMPD  
5 Defendants affirmatively allege that the Body Worn Camera Footage of the incident speaks for  
6 itself.

7 20. Answering Paragraph 20 of the Second Amended Complaint, the LVMPD  
8 Defendants affirmatively allege that the Body Worn Camera Footage of the incident speaks for  
9 itself.

10 21. Answering Paragraph 21 of the Second Amended Complaint, the LVMPD  
11 Defendants deny the allegations.

12 22. Answering Paragraph 22 of the Second Amended Complaint, LVMPD  
13 Defendants admit that Plaintiff requested a watch commander.

14 23. Answering Paragraph 23 of the Second Amended Complaint, the LVMPD  
15 Defendants deny the allegations.

16 24. Answering Paragraph 24 of the Second Amended Complaint, are without  
17 knowledge or information sufficient to form a belief as to the truth of the allegations contained in  
18 said paragraph and therefore deny the same.

19 25. Answering Paragraph 25 of the Second Amended Complaint, LVMPD  
20 Defendants affirmatively allege that the 911 recordings from the encounter with Plaintiff speak  
21 for themselves.

22 26. Answering Paragraph 26 of the Second Amended Complaint, LVMPD  
23 Defendants deny the allegations.

24 27. Answering Paragraph 27 of the Second Amended Complaint, LVMPD defendants

1 affirmatively allege that the Body Worn Camera Footage of the encounter with Plaintiff speaks  
2 for itself.

3 28. Answering Paragraph 28 of the Second Amended Complaint, LVMPD  
4 Defendants deny the allegations.

5 29. Answering Paragraph 29 of the Second Amended Complaint, LVMPD  
6 Defendants deny the allegations.

7 30. Answering Paragraph 30 of the Second Amended Complaint, the allegations  
8 contained therein consist of non-factual legal conclusions and, therefore, the LVMPD  
9 Defendants are not required to answer Paragraph 30.

10 31. Answering Paragraph 31 of the Second Amended Complaint, the LVMPD  
11 Defendants deny the allegations.

12 32. Answering Paragraph 32 of the Second Amended Complaint, the LVMPD  
13 Defendants deny the allegations.

14 33. Answering Paragraph 33 of the Second Amended Complaint, the allegations  
15 contained therein consist of non-factual legal conclusions and, therefore, LVMPD Defendants  
16 are not required to answer Paragraph 33.

17 34. Answering Paragraph 34 of the Second Amended Complaint, the LVMPD  
18 Defendants are without knowledge or information sufficient to form a belief as to the truth of the  
19 allegations contained in said paragraph and therefore deny the same.

20 35. Answering Paragraph 35 of the Second Amended Complaint, the LVMPD  
21 Defendants are without knowledge or information sufficient to form a belief as to the truth of the  
22 allegations contained in said paragraph and therefore deny the same.

23 36. Answering Paragraph 36 of the Second Amended Complaint, the allegations  
24 contained therein consist of non-factual legal conclusions and, therefore, the LVMPD

1 Defendants are not required to answer.

2 37. Answering Paragraph 37 of the Second Amended Complaint, the allegations  
3 contained therein consist of non-factual legal conclusions and, therefore, the LVMPD  
4 Defendants are not required to answer.

5 38. Answering Paragraph 38 of the Second Amended Complaint, the LVMPD  
6 Defendants deny the allegations contained therein.

7 39. Answering Paragraph 39 of the Second Amended Complaint, the LVMPD  
8 Defendants deny the allegations contained therein.

9 40. Answering Paragraph 40 of the Second Amended Complaint, the LVMPD  
10 Defendants deny the allegations contained therein.

11 **COUNT I**

12 **VIOLATION OF THE FOURTH AMENDMENT PROTECTION AGAINST**  
13 **UNREASONABLE SEARCHES AND SEIZURES, THE FOURTEENTH AMENDMENT**  
14 **DEPRIVATION OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF**  
15 **LAW, BY THE GOVERNMENT**

16 **Pursuant to 42 U.S.C. § 1983 against Defendants Officer S. Hunt, and Officer Smith**

17 41. Answering Paragraph 41 of the Second Amended Complaint, LVMPD  
18 Defendants repeat and re-allege the allegations contained in the preceding paragraphs as though  
19 fully set forth herein.

20 42. Answering Paragraph 42 of the Second Amended Complaint, the LVMPD  
21 Defendants deny the allegations.

22 43. Answering Paragraph 43 of the Second Amended Complaint, the LVMPD  
23 Defendants deny the allegations.

24 44. Answering Paragraph 44 of the Second Amended Complaint, the LVMPD  
25 Defendants deny the allegations.

26 45. Answering Paragraph 45 of the Second Amended Complaint, the LVMPD

1 Defendants deny the allegations.

2 46. Answering Paragraph 46 of the Second Amended Complaint, the LVMPD  
3 Defendants allege that Paragraph 46 does not accurately recite an oath that police officers are  
4 required to take. To the extent Paragraph 46 contains factual allegations, the LVMPD  
5 Defendants deny the allegations.

6 47. Answering Paragraph 47 of the Second Amended Complaint, the allegations  
7 contained therein consist of non-factual legal conclusions and, therefore, LVMPD Defendants  
8 are not required to answer.

9 48. Answering Paragraph 48 of the Second Amended Complaint, the LVMPD  
10 Defendants deny the allegations.

11 49. Answering Paragraph 49 of the Second Amended Complaint, the LVMPD  
12 Defendants deny the allegations.

13 50. Answering Paragraph 50 of the Second Amended Complaint, the LVMPD  
14 Defendants deny the allegations.

15 51. Answering Paragraph 51 of the Second Amended Complaint, the LVMPD  
16 Defendants deny the allegations.

17 52. Answering Paragraph 52 of the Second Amended Complaint, the LVMPD  
18 Defendants deny the allegations.

19 53. Answering Paragraph 53 of the Second Amended Complaint, the LVMPD  
20 Defendants deny the allegations.

21 54. Answering Paragraph 54 of the Second Amended Complaint, the LVMPD  
22 Defendants deny the allegations.

23 55. Answering Paragraph 55 of the First Amended Complaint, the LVMPD  
24 Defendants deny the allegations contained therein.

1           56.     Answering Paragraph 56 of the Second Amended Complaint, the LVMPD  
2 Defendants deny the allegations.

3           57.     Answering Paragraph 57 of the Second Amended Complaint, the LVMPD  
4 Defendants deny the allegations.

5           58.     Answering Paragraph 58 of the Second Amended Complaint, the LVMPD  
6 Defendants deny the allegations.

7           59.     Answering Paragraph 59 of the Second Amended Complaint, the allegations  
8 contained therein consist of non-factual legal conclusions and, therefore, LVMPD Defendants  
9 are not required to answer Paragraph 59.

10          60.     Answering Paragraph 60 of the Second Amended Complaint, the LVMPD  
11 Defendants deny the allegations.

12          61.     Answering Paragraph 61 of the Second Amended Complaint, the LVMPD  
13 Defendants deny the allegations.

14          62.     Answering Paragraph 62 of the Second Amended Complaint, the LVMPD  
15 Defendants deny the allegations.

16          63.     Answering Paragraph 63 of the Second Amended Complaint, the LVMPD  
17 Defendants deny the allegations contained therein.

18          64.     Answering Paragraph 64 of the Second Amended Complaint, LVMPD  
19 Defendants deny the allegations contained therein.

20          65.     Answering Paragraph 65 of the Second Amended Complaint, the allegations  
21 contained therein consist of non-factual legal conclusions and, therefore, LVMPD Defendants  
22 are not required to answer.

23          66.     Answering Paragraph 66 of the Second Amended Complaint, the LVMPD  
24 Defendants deny the allegations contained therein.



1           67.     Answering Paragraph 67 of the Second Amended Complaint, the LVMPD  
2 Defendants deny the allegations contained therein.

3           68.     Answering Paragraph 68 of the Second Amended Complaint, the LVMPD  
4 Defendants deny the allegations contained therein.

5           69.     Answering Paragraph 69 of the Second Amended Complaint, the LVMPD  
6 Defendants deny the allegations contained therein.

7           70.     Answering Paragraph 70 of the Second Amended Complaint, the LVMPD  
8 Defendants deny the allegations contained therein.

9           71.     Answering Paragraph 71 of the Second Amended Complaint, the LVMPD  
10 Defendants deny the allegations contained therein.

11          72.     Answering Paragraph 72 of the Second Amended Complaint, the LVMPD  
12 Defendants deny the allegations contained therein.

13          73.     Answering Paragraph 73 of the Second Amended Complaint, the LVMPD  
14 Defendants deny the allegations contained therein.

15          74.     Answering Paragraph 74 of the Second Amended Complaint, the allegations  
16 contained therein consist of non-factual legal conclusions and, therefore, LVMPD Defendants  
17 are not required to answer.

18          75.     Answering Paragraph 75 of the Second Amended Complaint, the allegations  
19 contained therein consist of non-factual legal conclusions and, therefore, LVMPD Defendants  
20 are not required to answer.

21          76.     Answering Paragraph 76 of the Second Amended Complaint, the LVMPD  
22 Defendants deny the allegations contained therein.

23          77.     Answering Paragraph 77 of the Second Amended Complaint, the LVMPD  
24 Defendants deny the allegations contained therein.

**COUNT II**

***NRS 200.510 (1) Libel, Defamation of Character against Officer S. Hunt and National Crime Information Center (NCIC) (public or otherwise), et al.***

78. Answering Paragraph 78 of the Second Amended Complaint, LVMPD Defendants repeat and re-allege the allegations contained in the preceding paragraphs as though fully set forth herein.

79. Answering Paragraph 79 of the Second Amended Complaint, this allegation concerns a claim that is not asserted against LVMPD Defendants and, therefore, LVMPD Defendants are not required to answer the same.

80. Answering Paragraph 80 of the Second Amended Complaint, this allegation concerns a claim that is not asserted against LVMPD Defendants and, therefore, LVMPD Defendants are not required to answer the same.

81. Answering Paragraph 81 of the Second Amended Complaint, this allegation concerns a claim that is not asserted against LVMPD Defendants and, therefore, LVMPD Defendants are not required to answer the same.

82. Answering Paragraph 82 of the Second Amended Complaint, this allegation concerns a claim that is not asserted against LVMPD Defendants and, therefore, LVMPD Defendants are not required to answer the same.

83. Answering Paragraph 83 of the Second Amended Complaint, this allegation concerns a claim that is not asserted against LVMPD Defendants and, therefore, LVMPD Defendants are not required to answer the same.

84. Answering Paragraph 84 of the Second Amended Complaint, this allegation concerns a claim that is not asserted against LVMPD Defendants and, therefore, LVMPD Defendants are not required to answer the same.





**PRAYER FOR RELIEF**

Answering this Paragraph of the Second Amended Complaint, the LVMPD Defendants deny the allegations contained therein.

**AFFIRMATIVE DEFENSES**

Further, as affirmative defenses to each and all of Plaintiff's alleged causes of action, the LVMPD Defendants allege:

1. Plaintiff's Complaint on file herein fails to state a claim against LVMPD Defendants upon which relief can be granted.

2. Some or all of the Plaintiff's claims are barred by the statute of limitations and the claims notice statute.

3. LVMPD Defendants' actions were reasonable and justified under the circumstances and were privileged.

4. At all times mentioned in Plaintiff's Complaint, the LVMPD Defendants acted under the good faith belief that their actions were legally justifiable.

5. There can be no recovery for punitive damages against any government official acting in his or her official capacity, pursuant to 42 U.S.C. § 1983.

6. No award of punitive damages can be awarded against LVMPD Defendants under the facts and circumstances alleged in Plaintiff's Complaint.

7. Plaintiff's claims are subject to the doctrines of waiver and/or estoppel.

8. At all times mentioned in Plaintiff's Complaint, the LVMPD Defendants did not personally participate in any of the Plaintiff's alleged violations of constitutional rights.

9. To the extent Plaintiff's causes of actions against LVMPD Defendants sound in negligence, no recovery may be had predicated upon 42 U.S.C. § 1983.

10. Plaintiff's suit fails to state a claim for relief as it fails to allege violation of a

1 right, privilege, or immunity secured by the United States Constitution or by the laws of the  
2 United States.

3 11. LVMPD did not enact or promulgate any policy, statute, ordinance, or custom,  
4 policy, or procedure which denied or abridged any of the Plaintiff's constitutional rights.

5 12. LVMPD Defendants are qualifiedly immune from the actions alleged against  
6 them in Plaintiff's Complaint.

7 13. The Nevada Revised Statutes, chapter 41, limit the damages that may be  
8 collectable against a political subdivision of the State of Nevada.

9 14. LVMPD Defendants are not subject to suit upon the facts and conclusions as  
10 stated in Plaintiff's Complaint by reason of their sovereign immunity as a political subdivision of  
11 the State of Nevada and more particularly by reason of the provisions of NRS 41.031, 41.032,  
12 41.033.

13 15. Plaintiff's Complaint concerns a discretionary function of LVMPD for which  
14 LVMPD Defendants are immune.

15 16. Plaintiff's claims of a constitutional violation are unsupported in both fact and  
16 law, as Plaintiff has not alleged a sufficient basis from which a constitutional interest might arise  
17 in conjunction with the alleged actions.

18 17. LVMPD Defendants engaged in no conduct shocking to the conscience to be held  
19 liable for a substantive due process violation.

20 18. LVMPD Defendants acted at all pertinent times in accordance with applicable  
21 state and federal laws, and under legal authority.

22 19. LVMPD Defendants' conduct did not violate clearly established statutory and  
23 constitutional rights of which a reasonable person could have known.

24 20. Any injuries allegedly sustained by Plaintiff were the result of his own negligence

1 and/or actions.

2 21. Plaintiff's claims are barred by the Eleventh Amendment to the United States  
3 Constitution.

4 22. Plaintiff cannot recover punitive or exemplary damages because Plaintiff has  
5 failed to plead and cannot establish facts sufficient to support allegations of malice, oppression,  
6 or fraud. Plaintiff is not entitled to recover punitive or exemplary damages herein under any of  
7 the claims of relief alleged as none of LVMPD's supervisors, directors, or managing agents  
8 committed the alleged malicious, fraudulent, or oppressive acts were authorized to ratify such  
9 wrongful conduct or had advanced knowledge of the unfitness of any employee(s) who allegedly  
10 committed the acts and did not employ such person(s) with conscious disregard for the higher  
11 safety of others.

12 23. LVMPD has not been negligent and has not breached its alleged duty to properly  
13 supervise the conduct of its employees with whom Plaintiff interacted.

14 24. LVMPD Defendants were not deliberately indifferent to Plaintiff's health, safety,  
15 or constitutional rights.

16 25. LVMPD Defendants allege that the damages, if any, alleged by Plaintiff were  
17 caused in whole or in part, or were contributed to by reason of the negligence and/or intentional  
18 acts of Plaintiff, or by actions of a third person(s) who is not within the control of LVMPD.

19 26. No act or omission of the LVMPD Defendants was a cause in fact or a proximate  
20 cause of the injuries and damages, if any, sustained by Plaintiff.

21 27. The policies, procedures, or protocols of LVMPD were not violated.

22 28. LVMPD cannot be held liable under 42 U.S.C. § 1983 on a Respondent Superior  
23 theory of liability.

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1           29.     The search, arrest, identification, and imprisonment of Plaintiff, if any, was  
2 completely justified and privileged under the circumstances alleged and was perfected pursuant  
3 to probable cause and reasonable cause.

4           30.     LVMPD Defendants did not engage in extreme or outrageous behavior with either  
5 the intention of or reckless disregard for causing the Plaintiff emotional distress.

6           31.     Pursuant to FRCP 11, all possible affirmative defenses may not have been alleged  
7 herein insofar as insufficient facts were available after reasonable inquiry upon the filing of  
8 Plaintiff's Second Amended Complaint, and therefore, LVMPD Defendants reserve the right to  
9 amend their Answer to the Plaintiff's First Amended Complaint to allege additional affirmative  
10 defenses if subsequent investigation so warrants.

11           WHEREFORE, LVMPD Defendants pray for judgment as follows:

12           1.     That Plaintiff take nothing by virtue of Plaintiff's Second Amended Complaint  
13 on file herein, and that the same be dismissed with prejudice;

14           2.     For an award of reasonable attorney's fees and costs of suit incurred in the  
15 defense of this action;

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**CERTIFICATE OF SERVICE**

I certify that I am an employee of KAEMPFER CROWELL, and that on the date below, I caused the foregoing **LVMPD AND SERGEANT SMITH'S ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT** to be served via CM/ECF and/or First Class Mail (where indicated) addressed to the following:

Mark Clifford Sykes  
P.O. Box 91614  
Henderson, NV 89009

***Plaintiff in Proper Person***

DATED this 9th day of June, 2023.

/s/ Linda Gilman  
an employee of Kaempfer Crowell